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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,883	12/29/2005	Michael Tittmann	502901-338PUS	1374
27799 7590 01/16/2009 COHEN, PONTANI, LIEBERMAN & PAVANE LLP 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176				
EXAMINER				
CHAUDRY, ATIF H				
ART UNIT		PAPER NUMBER		
3753				
MAIL DATE		DELIVERY MODE		
01/16/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,883

Applicant(s)

TITTMANN, MICHAEL

Examiner

ATIF H. CHAUDRY

Art Unit

3753

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Status of the claims

Applicant's amendment as filed on 10/27/2008 has been entered. The amendment amended claims 1-9. Currently claims 1-9 are pending in this application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinz (US Patent 6276342) in view of Coha (US Patent 6553973).

3. Regarding claims 1 and 2, Sinz (fig. 1) discloses a fuel supply system for feeding fuel from a fuel tank 1 to an internal combustion engine 7 of a motor vehicle with a plurality of feed units 2, 3 arranged in the fuel tank 1, in which the feed units each have a surge chamber 9, 10 for collecting fuel and jet pumps 23, 24 for filling opposite surge chambers. Sinz fails to disclose a suction of a jet pump provided for filling a first surge chamber arranged in a second chamber. Coha (fig 1) teaches a fuel supply system comprising a saddle fuel tank and a plurality of surge chambers 69, 79 with the surge chamber 71 being fed by a suction line 74 connected to a jet pump 68 located inside a second surge chamber 69. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the fuel system disclosed by Sinz

with a jet pump suction inside the surge chamber as taught by Coho in order to balance the fuel level in the two chambers.

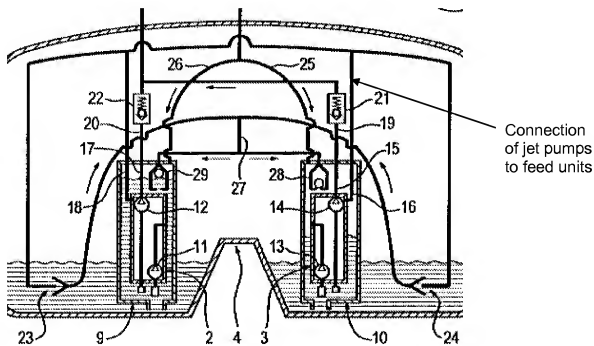
4. Regarding claim 3, Sinz discloses both sides of fuel tank and the surge chambers of identical size and shape; therefore it would be obvious to use the jet pumps having same capacity.

5. Regarding claim 4, Sinz (fig. 2) discloses the jet pumps 23, 24 arranged above a designated minimum height which when located in surge chambers as taught by Coho would be arranged above a designated minimum height in surge chambers.

6. Regarding claim 5, Sinz (fig. 1) discloses the jet pumps 23, 24 having individual feed lines.

7. Regarding claims 6 and 7, Sinz (fig. 2) discloses the jet pumps 23, 24 interconnected with a common collecting line 27 wherein the collecting line 27 for each of the surge chambers 9, 10 in each case has an inflow connected to the suction jet pump 23,24 and an outflow 28, 29 connected to the surge chamber 9,10.

8. Regarding claim 9, Sinz (fig. 2) discloses the jet pumps 23, 24, such that working fluid connections of the suction jet pumps are connected to feed units 2, 3 arranged in surge chambers 9, 10.



9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinz (US Patent 6276342) in view of Coha (US Patent 6553973) and further in view of Fischerkeller (US Patent 5797377).

10. Sinz fails to disclose jet pumps connected to a return line returning fuel from an internal combustion engine into the fuel tank. Fischerkeller (fig. 1) teaches a saddle fuel tank having a jet pump 31 connected to a return line 27 returning fuel from an internal

combustion engine into the fuel tank. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the fuel system disclosed by Sinz with a jet pump connected to a return line from engine as taught by Fischerkeller in order to utilize the fuel returning from the engine to balance the fuel level in the fuel tank.

Response to Arguments

11. Applicant's arguments filed 10/27/2008 have been fully considered but they are not persuasive. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Regarding claims 1 and 2, Applicants argument that "Coha thus teaches a fuel tank in which only one by-pass fuel jet pump (68) provides fuel to the opposing chamber. There is no connection to provide fuel from the fuel jet pump (70) to the other by-pass fuel jet pump (68)" is not persuasive as Coha is cited to show obviousness of placing the jet pumps inside the surge chambers only and the primary reference Sinz discloses a plurality of jet pumps and chambers.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tyler (EP 1302354) discloses (Fig. 1) a fuel tank having a plurality of feed units with surge chambers fed by jet pumps in opposing feed units.

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ATIF H. CHAUDRY whose telephone number is (571)270-3768. The examiner can normally be reached on Mon-Fri Alternate Friday off 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571)272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Atif H Chaudry/
Examiner, Art Unit 3753

/John Rivell/
Primary Examiner, Art Unit 3753

12/30/2008